

**MINUTES**  
**Montana Fish, Wildlife & Parks Commission Meeting**  
**FWP Headquarters – 1420 East 6<sup>th</sup> Avenue**  
**Helena, MT**  
**OCTOBER 7 - 8, 2009**

**Commission Members Present:** Dan Vermillion, Vice-Chairman; Willie Doll; Ron Moody; Bob Ream.

**Fish, Wildlife & Parks Staff Present:** Joe Maurier, Director, and FWP Staff.

**Guests:** See October 8, 2009 Commission file folder for names of who signed in.

A work session was held the afternoon of October 7 with the US Fish & Wildlife Service and US Department of Agriculture to discuss the relationships, roles and responsibilities between the agencies, and to discuss the existing MOU related to depredation, and predator control.

**Topics of Discussion:**

1. **Call to Order - Pledge of Allegiance**
2. **Approval of Minutes of August 13, 2009, August 27, 2009, and October 2, 2009**
3. **Approval of Commission Expenses through August and September, 2009**
4. **Director's Awards**
5. **TIPMONT Appreciation award to Willie Doll**
6. **2010 Commission Meeting Schedule - Tentative**
7. **Commission Reports**
8. **Dover Park Five Mile Creek Acquisition – Endorsement**
9. **2010 Fishing Regulation Changes – Final**
10. **Bull Trout Fishing Closure Extension and Expansion in Region 1 – Tentative**
11. **Future Fisheries Projects – July Funding Cycle – Final**
12. **Emergency Closure Administrative Rules – Final**
13. **2010 Non-Resident Combination License Annual Rule – Tentative**
14. **Non-Game Tax Check-off Project Proposals – Final**
15. **Bighorn Sheep and Mountain Goat Proposed Transplants – Endorsement**
16. **Glass Property Acquisition in Fergus County near Beckman WMA – Final**
17. **Jack Hirschy Livestock Conservation Easement in the Big Hole – Endorsement**
18. **2010-2011 Season Setting Scoping Summary – Informational**
19. **Wolf Management Unit #3**
20. **Bighorn Sheep Conservation Strategy Update – Informational**
21. **Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. **Opening - Pledge of Allegiance.** Vice-Chairman Vermillion called the meeting to order at 8:00 a.m. and led the Pledge of Allegiance.

2. **Approval of the Commission Meeting Minutes of August 13, 2009, August 27, 2009, and October 2, 2009.** *Action: Doll moved and Ream seconded the motion to approve the August 13 minutes. Motion carried. Ream moved and Doll seconded the motion to approve the August 27 minutes. Motion carried. Ream moved and Moody seconded the motion to approve the October 2 minutes. Motion carried.*

**2. Approval of the August and September, 2009 Commission Expense Reports.**

*Action: Ream moved and Doll seconded the motion to approve the expense reports as presented. Motion carried.*

**4. Director's Awards.** Director Maurier, Vice-Chairman Vermillion, and Ellen Bryson of Human Resources presented the 2009 Director's Awards to FWP staff, and Ron Aasheim took photographs. The awards are as follows:

Kevin Nichols and Shawn Stewart - Innovative Thinker Team Award

Ryan Lott and Brad Tribby - Governor's Award / Special Achievement Team Award

Kqyn Kuka - Special Achievement Award

Dale Carlson – Professional of the Year Award

Sara Scott – Special Achievement Award

Ellen Bryson – Governor's Award / Special Achievement Award

Donna Hansen – Professional of the year Award

Those not present to accept their awards were Bill Dawson for Professional of the Year Award, Scott Blossom for the Innovative Thinker Award, and Phil Schroeder for the Innovative Thinker Award.

**5. TIPMONT Appreciation award to Willie Doll.** Director Maurier and FWP Enforcement Bureau Chief Jim Kropp spoke to the success of the TIPMONT program under Brian Shinn's leadership, and because of active involvement by individuals such as Commissioner Doll. The TIPMONT Crimestoppers program, which also involves BLM and the Forest Service, has grown significantly over the past few years, receiving in excess of 1,800 calls annually.

Brian Shinn, TIPMONT Coordinator, thanked Commissioner Doll for serving on the TIPMONT Board for the last two years. He acknowledged Doll for attending every meeting, for providing insight and a fresh approach to the process, and for sharing suggestions on streamlining the award processes. Shinn awarded Doll with an engraved oak plaque in appreciation for his dedication to the program.

**6. 2010 Commission Meeting Schedule – Tentative.** Director Maurier noted that the proposed schedule includes dates for some of the annual meetings that FWP staff and Commissioners typically attend. He stated that WAFWA is more beneficial for commissioners than AFWA, as WAFWA provides a forum for commissioners, while AFWA does not. The travel budget should be sufficient for commissioners to attend, provided it is not overspent before that time.

Vermillion stated that the two WAFWA meeting he attended were very informative. Commissioners will need to figure out which meetings they prefer to attend.

Doll suggested setting the November meeting date to the 18<sup>th</sup> rather than the 4<sup>th</sup>. The Wildlife Division stated that date would work for them. The Commission concurred with the date change. The final decision will be made in November.

**7. Commission Reports.**

Moody attended the Upland Game Bird Advisory Council in Lewistown, and attended the National Shooting Sports Foundation meeting in Nashville, Tennessee. He feels hunter recruitment and retention is one of the challenges to the future of hunting in Montana. He also attended the Sun River Working Group meeting in Conrad where folks are very upset about shed horn hunting, and four wheelers harassing and running elk. He said this problem must be addressed by FWP because other WMAs also have these same problems. Rules may need to be drafted. The working group also expressed concerns that the Pittman-Robertson and Habitat Montana funds were being committed to a single project west of the Continental Divide, leaving no funds available for any other statewide purchases. Their priority is to expand the Sun River Game Range to alleviate

overgrazing issues and deterioration of the winter range for elk. They ask that FWP reserve funds for the purchase of adjacent lands to the game range if the opportunity arises, as well as for other acreage across the state if it becomes available. They urge FWP not to spend all the funds on one purchase. Moody stated that the public has the right to have a say in purchases made by FWP.

Maurier clarified that FWP will have money available even if the Department purchases the land on the west side of the Divide. All acquisitions must go through a specific purchasing process. There is always going to be contention in the state when one area gets something and the other does not.

Ream said he attended the Western Governor's Association meeting in Helena regarding wildlife corridors. He said the Department deserves a commendation for being in the forefront of this issue.

Vermillion met with the Madison Valley Elk Working Group to discuss the management of access during the general season. They agreed to hire a hunt coordinator for the east side of the Madison. Names will be drawn from a list of 1,600. Vermillion also visited the site of the proposed future fisheries project on Fleshman Creek in Park County. He said it is a project that would create opportunities. He stated that several folks have expressed their concerns to him about the wolf harvest.

**8. Dover Park Five Mile Creek Acquisition – Endorsement.** Chas VanGenderen, FWP Parks Division Administrator, explained that the Yellowstone River Parks Association (YRPA) has been working toward obtaining additional park opportunities near Billings. They have met with FWP regional staff numerous times to discuss a possible donation, or sale, of 40 acres on the Yellowstone River at the mouth of Five Mile Creek to FWP. This is part of a larger piece of land donated to YRPA over the years by Jim Sindelar, whose intent is to eventually create a large park north of this parcel that would include a lake with a trail system. The site includes riparian vegetation, willows, Russian Olives, grass and shrubs, and sandstone bluffs. Lake Elmo State Park staff would conduct routine maintenance and management duties to minimize management costs.

*Action: Vermillion moved and Doll seconded the motion to authorize the Department to pursue potential land acquisition of the Dover Park Five Mile property east of Billings for park and public recreation purposes. Motion carried.*

**9. 2010 Fishing Regulation Changes – Final.** Don Skaar, FWP Fish Management Section Manager, said there are no proposed changes to the tentatives. The Fisheries Division develops fishing regulations on a four-year cycle, and because the 2010 fishing season is an “off” year in the four-year cycle, changes to the regulations only address clarifications, enforcement needs, conservation measures, or lack of relevancy. The recommended changes include the definition of a “reservoir”, the lack of relevancy in Deep Creek, Trail Creek, and Wounded Buck Bay, conservation issues on the Flathead River and Fish Creek, which are both bull trout waters, and enforcement needs on Scott and Chessman Reservoirs.

*Action: Ream moved and Moody seconded the motion to adopt the Department's proposed final regulation changes for the 2010 fishing season. Motion carried.*

**10. Bull Trout Fishing Closure Extension and Expansion in Region 1 – Tentative.** Don Skaar, FWP Fish Management Section Manager, stated that substantial numbers of adult bull trout are still staging in early September at the mouths of Big Creek on the North Fork of the Flathead, Bear Creek on the Middle Fork of the Flathead, and on Woodward Creek on the Swan as they prepare for their upstream spawning migration. The stream mouths are presently closed to fishing within 100 yards from June 1 through August 31 to prevent anglers from targeting the bulls, however a small group of anglers are using loopholes to illegally target adult bull trout under the pretext of fishing for other species. As bull trout are listed as a threatened species, FWP proposes to extend closure of the mouths of Big, Bear and Woodward Creeks for a 150-yard radius from June 1 through September 30 to protect the adult bull trout while they are staging.

*Action: Ream moved and Vermillion seconded the motion to extend the fishing closures to 150-yards of the mouths of Big, Bear and Woodward creeks in Region 1 from June 1 through September 30. Motion carried.*

**11. Future Fisheries Projects – July Funding Cycle – Final.** The Future Fisheries Improvement Program provides funds for projects that restore fish habitats in streams, rivers, and lakes for the benefit of wild fisheries. Applications for proposed projects are reviewed twice each year by a citizen review panel appointed by the Governor. Panel recommendations are forwarded to the Commission for approval. Mark Lere, FWP Fisheries Division Habitat Restoration Officer, stated that the panel received eighteen applications for the July funding cycle, of which eleven are recommended at a cost of \$422,159. Matching funds or in-kind contributions from outside sources total \$696,045. There are two sources of funding. One is through earmarked license dollars, and the other is through RIT trust fund dollars that are earmarked solely for trout restoration.

*Action: Ream moved and Vermillion seconded the motion to approve the citizen review panel funding recommendations for the July 2009 funding cycle of the Future Fisheries Improvement Program.*

Moody stated that the review committee is doing an excellent job.

Vermillion asked if there had been a change in the application procedure because several projects had been recommended for denial based on insufficient information, such as the Fleshman Creek proposal in Park County, and the Spring Creek proposal in Madison County.

Lere explained that the criteria for proposals requires that specifics be spelled out in the application to identify how the money will be spent. The panel wants to see details on how projects will be undertaken. To aid potential applicants, a variety of design recommendations have been placed on the web for reference when drafting their applications. The panel felt the Fleshman Creek proposal would be a beneficial project, however the application did not identify specifics of how the money would be spent for the fishery. Similarly, the Spring Creek proposal failed to identify specifics on how the funds would be utilized. It has been suggested to both applicants that they rewrite their applications and resubmit in a future funding cycle.

*Action on Motion: Motion carried.*

**12. Emergency Closure Administrative Rules – Final.** Bob Lane, FWP Chief Legal Counsel, explained that these proposed rules pertain to land and water owned or controlled by FWP. The Commission must adopt the rules to delegate authority to FWP to expeditiously close land or water in cases of emergencies or potential peril to the safety and welfare of the public. In addition to water and fire closures, these rules will include other emergencies as well. Conducting emergency Commission conference calls is cumbersome and time-consuming when time is of the essence. The Commission will be provided details of the closure and what precipitated the action.

*Action: Doll moved and Ream seconded the motion to approve the final emergency rules as proposed.*

Vermillion stated that the Commission retains the authority to overturn the closure if so desired.

Lane concurred, saying that the authority is delegated to the Department, but it is not irrevocable. In fire situations, the incident commander makes the call. It is difficult to establish specific criteria for each and every individual emergency that may arise. The Legal Unit will draft protocol on procedures.

Vermillion recommended involving the local district Commissioner as much as possible because the public will contact him for information. Ream agreed, saying it is important that the local Commissioner be aware of any situations.

Vice-Chairman Vermillion asked for public comment. There was none.

*Action on Motion: Motion carried.*

**13. 2010 Non-Resident Combination License Annual Rule – Tentative.** Hank Worsech, FWP Licensing Bureau Chief, explained that the Variable-Priced Licensing Advisory Council met in Helena on August 13 to discuss fee recommendations for 2010 outfitter-sponsored licenses. By statute, fees for these licenses must be set at a market rate intended to sell as close to, but not more than, an average of 5,500 B-10 and 2,300 B-11 license per year, over five years. The council unanimously recommended:

- 5,390 for the B-10 Outfitter Sponsored Big Game Combination license at \$1,250 per license
- Outfitter Sponsored Elk Combination license at \$995 per license (part of above quota)
- 2,250 quota for the B-11 Outfitter Sponsored Deer Combination license at \$995 per license

*Action: Ream moved and Doll seconded the motion to direct the Department to proceed with public comment for the tentative Annual Rule.*

Vice-Chairman Vermillion asked for public comment. There was none.

*Action on Motion: Motion carried.*

**14. Non-Game Tax Check-off Project Proposals – Final.** Ken McDonald, FWP Wildlife Division Bureau Chief, explained that under 87-5-122, MCA, the Commission must annually review non-game wildlife projects that are proposed for funding from the tax check-off funds. Tentative recommendations were approved in July. The authorized budget is \$68,000 dollars, which comes from \$50,000 donated through 2008 tax returns, plus some carry-over from previous years. Six projects have been identified for funding. The public comment period generated only one comment, which was in support of the projected spending. Projects include \$20,000 to prioritize Habitat for Conservation, \$24,000 for Inventory and Monitoring Species of Concern, \$10,000 for Loon Conservation in Northwestern Montana, \$5,000 for Post De-Listing Bald Eagle Monitoring, \$5,000 for Post De-Listing Peregrine Falcon Monitoring, and \$4,000 for Educational Publications.

*Action: Ream moved and Moody seconded the motion to approve the proposed Non-game Tax Check-Off work for Fiscal Year 2010. Motion carried.*

**15. Bighorn Sheep and Mountain Goat Proposed Transplants – Endorsement.** Quentin Kujala, FWP Wildlife Division, explained that this proposal is for the transplant of up to 85 sheep and up to 20 goats from source populations to destination sites. The source populations for sheep are located in HD213, HD216 and the Sun River game range in Region 4, and the destination sites are in Utah and Washington. Montana release sites are not available yet – it is more complex to develop sites than to augment existing sites. Goats would be removed from HD313 and transplanted in Region 1. Kujala noted that FWP is observing areas of heavy mortalities to see how the populations do – whether they come back on their own or if there is something in the environment that keeps the herds down.

*Action: Ream moved and Doll seconded the motion to endorse the bighorn sheep and mountain goat transplants.*

Doll recommended that the receiving states cover all costs and reimburse FWP for staff time involved.

*Action: It was moved and seconded to amend the motion to stipulate that the receiving state pays one hundred percent on the cost.*

It was noted that FNAWS also helps pick up costs involved.

Vice-Chairman Vermillion asked for public comment.

Glenn Hockett – Gallatin Wildlife Association, stated that they prefer augmentation of herds within the state. They think there are opportunities to augment existing herds. He questioned why Montana is not setting up receiving sites if other states are doing so. What does it take to get augmentation sites up and running?

Jim Weatherley, Montana Wild Sheep Association, said they support transplants, but with caveats. Montana must look at new augmentation sites within the state, as this is the third time for out-of-state transplants. Some herds are very low and need augmented. He said funding has been provided by other states in the past for previous transplants, and those other states have also donated money when needed. They support the transplants of goats too.

Jim Bailey, Belgrade, Gallatin Wildlife Association, said if there is a problem area that is keeping populations low, FWP must determine what is wrong.

Larry Copenhaver, Montana Wildlife Federation, said there are numbers that can be moved around. If removal of animals is crucial to the benefit of the herd, do it, if not, don't. They are reluctant to spread the wealth until the health and wealth is taken care of in Montana.

*Action on Motion: Motion carried.*

**16. Glass Property Acquisition in Fergus County near Beckman WMA – Final.** Ken McDonald, FWP Wildlife Division Bureau Chief, explained that this 80-acre property is located in the Judith River breaks northeast of Denton, adjoining the Beckman Wildlife Management Area. In 1999, the Leroy Beckman estate gifted to FWP the funds to acquire 6,564 acres in four separate acquisitions to provide public deer hunting. The gifted land was named the Beckman Wildlife Management Area. This acquisition, purchased with Habitat Montana funds at a cost of \$80,000, will become part of the existing Beckman WMA and its current management practices. Public comment is in favor of the proposal.

*Action: Moody moved and Vermillion seconded the motion to approve the purchase of the Glass Property as an addition to the Beckman WMA using Habitat Montana Funds.*

Vice-Chairman Vermillion asked for public comment.

John Borgreen, Russell Country Sports Association, said they support this acquisition, but they are curious about access.

Graham Taylor, FWP Region 4 Wildlife Manager, said there is a half-mile of common boundary so there is access through the Beckman WMA, and there is a public access corridor off a public road. It does not go directly to the 80 acres, but it does provide access.

Bill O'Connell – Gallatin Wildlife Association, said they support the proposal.

Larry Copenhaver, Montana Wildlife Federation, said they support the purchase.

*Action on Motion: Motion carried.*

**17. Jack Hirschy Livestock Conservation Easement in the Big Hole – Endorsement.** Ken McDonald, FWP Wildlife Division Bureau Chief, explained that this proposal is essentially an exchange that removes 800 acres from an existing grazing management easement, and in return the Hirschy's will provide an additional 320 acres to add to the existing 9,468-acre Jack Hirschy Livestock conservation easement in the Big Hole Valley that was purchased in 1998. The 800-acre parcel on the easement is split in half by an electric fence for restoration purposes, but the Hirschy's are not comfortable with the arrangement and They requested a return to how they had used the pasture before the easement. This exchange would remove the rest rotation, but would provide for late summer pasture. Hunting access is managed through Block Management. It is simply a trade with no money exchanged.

*Action: Vermillion moved and Moody seconded the motion to endorse FWP's efforts to acquire the 320-acre conservation easement from Jack Hirschy Livestock, Inc.*

Vice-Chairman Vermillion asked for public comment. There was none.

*Action on Motion: Motion carried.*

**18. 2010-2011 Season Setting Scoping Summary – Informational.** Quentin Kujala, FWP Wildlife Division, explained that hunting season structures for deer, elk, antelope, moose, sheep, goat, black bear, mountain lion, wolf and upland birds are currently adopted for two-year intervals. Proposals for adjustment for the 2010-2011 hunting seasons will be presented to the Commission in December. Historically, FWP has engaged the public through many avenues to gather input on proposals, such as through routine contacts by FWP staff, through public comments during tentative proposals at Commission meetings, during the comment period in January, which includes more than 40 meetings, hearings, and open houses across the state, and during final presentations if significant changes to the tentatives are proposed. FWP developed an additional step for the 2010-2011 season-setting process to address criticism that there still wasn't sufficient opportunity for public participation by offering two additional Commission presentations for discussion, additional public comment opportunities through September 4, and another open house in each region.

Vermillion stated that he is hearing growing support for a Saturday opener.

Doll suggested that the regulation books include a page of all of the changes made to the previous regulations.

Glenn Hockett, Gallatin Wildlife Association, asked if constituencies could be informed about meetings and their content earlier. He is concerned about objectives and the process of setting them. Objectives are too low.

Director Maurier noted that statutorily, landowner tolerance comes into play.

Marvin Mace, Helena resident, asked the Commission to consider a waiting period for trophy elk tags after someone has received one. There is a waiting period for moose, sheep and goat tags, so he would like to see one for elk as well.

**19. Wolf Management Unit #3.** Quentin Kujala, FWP Wildlife Division, said WMU3 has a quota of twelve, and nine have already been taken. FWP suggests a closure of the WMU until the opening of the general season.

Moody asked if there is time to communicate a closure to the public. He supports opportunities during the general season on the ranches rather than all in the wilderness.

Ream said the folks who are already in the backcountry will not get the notice. He is concerned about keeping a hunt open in WMU 3 when the general season opens, and asked if quotas could be shifted from other units.

Kujala stated that they are not recommending shifting quota numbers. This is an administrative closure quota so does not require Commission action.

Bob Lane, FWP Legal Counsel, said the Commission has delegated authority to the Department to close seasons. To shift quotas, the Commission must direct FWP to advise the public, and prepare to receive public comment. Relative to shifting quotas, a portion of the litigation relates to genetics on the Yellowstone wolf pack.

Doll suggested opening the season only during general season and not offering an early season.

*Action: Moody moved that the Department develop a plan to move a quota of 2-3 wolves from WMU2, and move a quota of 1-2 wolves from WMU1 to WMU3 with vision for a public comment period.*

Following discussion among the Commission and FWP staff, Moody withdrew his motion.

*Action: Ream moved and Moody seconded the motion to close the backcountry area in WMU3 immediately today, and hold a conference call next week to assess possibilities of creating additional opportunities. Motion carried.*

**20. Bighorn Sheep Conservation Strategy Update – Informational.** Quentin Kujala, FWP Wildlife Division, stated that FWP recently completed a draft Bighorn Sheep Conservation Strategy. The document is divided into two chapters. Chapter 1 provides a history of past and current management of bighorn sheep in Montana, and defines future management direction for the next ten years. Chapter 2 contains individual

management plans for bighorn populations in each of Montana's bighorn sheep hunting districts, as well as in five small populations that are not currently hunted. It is intended to be flexible to incorporate new ideas and new technological and scientific advances, and to adapt management efforts to changes in populations and habitats. The Department has identified four or five sites that warrant consideration for release sites.

Vice-Chairman Vermillion asked for public comment.

Jim Weatherly, Montana Wild Sheep Foundation, suggested strengthening the language in the strategy. New transplant sites need to be identified, and firm numbers must be set. Make needed changes at the end of the ten years. They appreciate being allowed to help review the strategy.

Jim Bailey, Gallatin Wildlife Association, said bighorn sheep are not in good shape in Montana, and he wants to instill urgency into the strategy, and the Commission's response to that urgency. Should compare the number of sheep with the potential of sheep, not with the rock bottom numbers. The Missouri River transplants were good. The policy regarding transplants has not been adequate. He wants FWP to work more closely with the public.

Larry Copenhaver, Montana Wildlife Federation, said they want to see a more assertive strategy, and they encourage an aggressive translocation program. Set the goal for ten new viable populations over the next ten years.

Eric Riley, Montana Woolgrowers, said by working together, it should be possible to maintain a healthy sheep population. Both species should be able to survive on the landscape. Avoid co-mingling and conflict between domestic and wild sheep. Follow a good neighbor policy.

Glenn Hockett, Gallatin Wildlife Association, said the distribution on sheep as proposed on page 9 of the strategy is inadequate. There are a lot of stumbling blocks. He is unsatisfied with the numbers, and will not accept incompatible use of public land where domestic sheep are also grazing.

## **21. Open Microphone – Public Opportunity to Address Additional FWP Issues.**

Larry Copenhaver, MWF, requested that the public be made more aware of where Habitat Montana are spent.

John Borgreen said he is associated with several working groups, and there is concern about where money is being spent, and about where the land under consideration is located. They support acquisitions, but there is concern about the impact on eastern Montana. There were several proposed projects but they were cancelled. There is the feeling that projects are all in western Montana. Regarding wolves, he would like to see a comprehensive survey of the folks who bought a wolf tag. He wants to know why people buy tags. It might generate ownership on wolves if people know why others buy tags.

Moody stated that he has heard a great deal of concern that FWP is using all of the land money to buy two parcels of land. More information must be posted on the website with a link for comments. He suggested attaching payment plans to the proposals that are presented to the Commission for decision.

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*Action: Moody moved and Ream seconded the motion to adjourn the meeting. Motion carried.*

Meeting adjourned at 1:30 p.m. The Commission entered into Executive Session at 1:35 p.m.

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**Dan Vermillion, Vice-Chairman**

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**Joe Maurier, Director**